

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

DONALD C. HUTCHINS,)	Civil Action 04-30126-MAP
)	
Plaintiff,)	Judge Michael A. Ponsor
)	
v.)	
)	
CARDIAC SCIENCE, INC., et al.,)	
)	
Defendants.)	

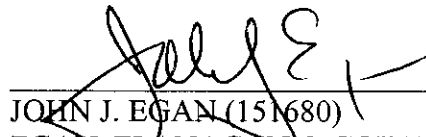
**MOTION REQUESTING THIS COURT TO TAKE JUDICIAL NOTICE OF DECISION
OF CUYAHOGA COUNTY, OHIO, COURT OF COMMON PLEAS**

Defendant, Compliant Corporation (“Compliant”), hereby requests that this Court take Judicial Notice of the August 24, 2005 decision of the Cuyahoga County, Ohio, Court of Common Pleas, granting Compliant’s Motion for Summary Judgment on substantially the same issues that are before this Court in this matter. See August 24, 2005 Journal Entry, a certified copy of which is attached hereto. “It is well-accepted that federal courts may take judicial notice of proceedings in other courts if those proceedings have relevance to the matters at hand.” Kowalski v. Gagne, 914 F.2d 299, 305 (1st Cir. 1990). See also St. Louis Baptist Temple, Inc. v. FDIC, 605 F.2d 1169, 1172 (10th Cir. 1979) (“Federal courts, in appropriate circumstances, may

take notice of proceedings in other courts, both within and without the federal judicial system, if those proceedings have a direct relation to matters at issue.”).

This matter and the Ohio matter involve several identical issues, including the proper interpretation of Section 3.10 of the License Agreement at issue and Plaintiff Donald C. Hutchins’ entitlement to 7.5 % of the proceeds of the sale of Compliant’s assets to Defendant Cardiac Science, Inc. See Defendant Compliant Corporation’s Motion for Summary Judgment, at 14-16 (discussing the res judicata effects of the Ohio litigation on this matter). Accordingly, because the issues in the Ohio case are identical to the issues in this case, this Court should be aware of the Ohio court’s decision.

Respectfully submitted,



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Attorneys for Defendant and Counterclaimant
Compliant Corporation

CERTIFICATE OF SERVICE

A copy of the foregoing Motion Requesting this Court to Take Judicial Notice of Decision of Cuyahoga County, Ohio, Court of Common Pleas was served, via regular U.S. mail, upon the following this 21st day of September, 2005.

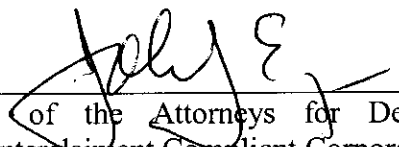
Donald C. Hutchins
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One of the Attorneys for Defendant and
Counterclaimant Compliant Corporation

CASE NO. 540066 ASSIGNED JUDGE Papen
Compland Corp VS Hutchins

<input type="checkbox"/> 02 REASSIGNED	DISPOSITION	<input type="checkbox"/> 81 JURY TRIAL	<input checked="" type="checkbox"/> 89 DIS. W/PREJ.
<input type="checkbox"/> 03 REINSTATED (C/A)		<input type="checkbox"/> 82 ARBITRATION DECREE	<input type="checkbox"/> 91 COGNOVITS
<input type="checkbox"/> 04 REINSTATED		<input type="checkbox"/> 83 COURT TRIAL	<input type="checkbox"/> 92 DEFAULT
<input type="checkbox"/> 20 MAGISTRATE		<input type="checkbox"/> 85 PRETRIAL	<input type="checkbox"/> 93 TRANS TO COURT
<input type="checkbox"/> 40 ARBITRATION		<input type="checkbox"/> 86 FOREIGN JUDGMENT	<input type="checkbox"/> 95 TRANS TO JUDGE
<input type="checkbox"/> 65 STAY		<input type="checkbox"/> 87 DIS. W/O PREJ	<input type="checkbox"/> 96 OTHER
<input type="checkbox"/> 69 SUBMITTED		<input type="checkbox"/> 88 BANKRUPTCY/APPEAL STAY	

NO. JURORS _____ COURT REPORTER _____
 START DATE ____/____/____ START DATE ____/____/____
 END DATE ____/____/____ END DATE ____/____/____

☐ PARTIAL
☒ FINAL
☒ POST CARD

DATE 8/17/05 (NUNC PRO TUNC ENTRY AS OF & FOR ____/____/____)

Plaintiff Compland Corporation Motion for summary judgment as to defendant Donald C. Hutchins filed 6/11/05 is granted on the grounds of its quid pro quo and the license agreement and the Asset Purchase Agreement.

Hearing held on issue of damages on 9/27/05 at 1:30pm

VOL3391 PG0045

JUDGE

CLERK OF COURT

RECEIVED FOR FILING

AUG 24 2005

BY Gerald E. Fuenst, Clerk

THE STATE OF OHIO }
 Cuyahoga County } SS. I, GERALD E. FUENST, CLERK OF
 HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS TRUE
 TAKEN AND COPIED FROM THE ORIGINAL
 NOW ON FILE IN MY OFFICE
 WITNESS MY HAND AND SEAL OF SAID COURT THIS 13
 DAY OF Sept A.D. 20 05
GERALD E. FUENST, Clerk
 By [Signature] Deputy

CPC 43-2